

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JEFFREY CREE,

CV 04-893-HU

Plaintiff,

ORDER

v.

CORRECTIONAL OFFICER AARON
JOHNSON,

Defendant.

JEFFREY CREE

S.I.D. No. 5695034
Oregon State Penitentiary
2605 State Street
Salem, OR 97310

Plaintiff, *Pro se*

HARDY MYERS

Attorney General

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Attorneys for Defendant

BROWN, Judge.

Magistrate Judge Dennis James Hubel issued Findings and Recommendation (#28) on September 20, 2005, in which he recommended this Court grant Defendant's Unenumerated 12 Motion to Dismiss or Alternatively Motion for Summary Judgment (#17). The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, this Court is relieved of its obligation to review the record *de novo*. *Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed the legal principles *de novo*, the Court does not find any error.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Hubel's Findings and Recommendation (#28). Accordingly, the Court **GRANTS** Defendant's Unenumerated 12 Motion to Dismiss or Alternatively Motion for Summary Judgment (#17).

IT IS SO ORDERED.

DATED this 8th day of November, 2005.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge